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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 SCOTT SEIWERT, *et al.*,

9 Plaintiffs,

10 v.

11 FIRST AMERICAN FINANCIAL
12 CORPORATION, *et al.*,

13 Defendants.

NO. C19-0988RSL

ORDER TRANSFERRING CASE

14 This matter comes before the Court on defendants' "Motion to Transfer Venue or Stay
15 Pursuant to First-to-File Rule or, in the Alternative, Pursuant to 28 U.S.C. § 1404(a)." Dkt. # 8.
16 Having reviewed the memoranda, declarations, and exhibits submitted by the parties,¹ the Court
17 finds as follows:

18 This case involves defendants' alleged failure to secure data, resulting in the disclosure of
19 the confidential information of millions of defendants' customers. Plaintiffs allege that, despite
20 receiving warnings that their customers' data was exposed and accessible, defendants did
21 nothing to protect the data until May 24, 2019, when a cybersecurity researcher and journalist
22 announced the defect on his blog. At least twenty-one class actions, many of which are brought
23 on behalf of a nationwide class, have been filed relating to the alleged disclosures of confidential
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26 ¹ This matter can be decided on the papers submitted. Defendants' request for oral argument is
27 DENIED.

1 information. The first-filed action was filed in the Central District of California and assigned to
2 the Honorable Dale S. Fischer for handling; most of the other cases have already been
3 transferred to Judge Fischer as related (intradistrict) or under the first-to-file rule (interdistrict).
4 The Judicial Panel on Multidistrict Litigation (“JPMDL”) recently declined to centralize
5 proceedings under 28 U.S.C. § 1407, noting that where there are a small number of cases and
6 most are already pending in a single district, outright transfers under the first-to-file rule or 28
7 U.S.C. § 1404 are preferable to limited pretrial transfers.

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9 Defendants argue that this case should be transferred to the Central District of California
10 under the first-to-file rule, which allows a district court to transfer, stay, or dismiss an action
11 when a complaint involving the same parties and issues has already been filed in another district.
12 Alltrade, Inc. v. Uniweld Prods., Inc., 946 F.2d 622, 625 (9th Cir. 1991). The rule “is intended to
13 serve the purpose of promoting efficiency well and should not be disregarded lightly.” Kohn
14 Law Grp., Inc. v. Auto Parts Mfg. Miss., Inc., 787 F.3d 1237, 1239 (9th Cir. 2015) (internal
15 quotation marks and brackets omitted). A court considers three factors in deciding whether to
16 apply the first-to-file rule: the chronology of the two actions, the similarity of the parties, and the
17 similarity of the issues. Alltrade, 946 F.2d at 625. The Court finds that the first-to-file rule
18 applies.

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21 Plaintiffs argue, however, that a transfer to the Central District of California is
22 inappropriate because, if a nationwide class is not certified or if Washington insurance law
23 provides protections that are unavailable to the residents of other states, transfer may ultimately
24 force Washington residents to litigate claims brought under Washington law in a California
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1 court.² Plaintiffs offer no reason to believe that the Central District is incapable of resolving the
2 class certification issues (including certifying statewide subclasses if appropriate) or of resolving
3 issues of Washington law. In its current posture, this case involves a nationwide class that
4 directly competes with the classes asserted in the cases pending in the Central District of
5 California. While “district court judges can, in the exercise of their discretion, dispense with the
6 first-filed principle for reasons of equity,” the circumstances justifying deviation from the
7 first-to-file rule include bad faith, anticipatory suit, or forum shopping. Alltrade, 946 F.2d at 628.
8 Plaintiffs do not argue that defendants filed prior lawsuits or acted in bad faith: rather, they
9 hypothesize that their own claims on behalf of a nationwide class will be rejected and the
10 resulting litigation will be more complicated than if this action were tried alone. The Court finds,
11 however, that judicial efficiency, case management considerations, and avoiding the risk of
12 inconsistent verdicts all support transfer so that a single district can determine how best to
13 resolve the competing and overlapping claims asserted in these cases. Deviation from the first-
14 to-file rule is not appropriate.


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17 The parties dispute whether this case should be heard in the Western or Southern Division
18 of the Central District of California. The Central District manages its own division management
19 and case assignment, however, and the Court declines to interfere in these matters.
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24 ² Plaintiffs also argued that defendants’ motion to transfer was premature because the JPMDL
25 had not yet decided whether to centralize pretrial proceedings under 28 U.S.C. § 1407. The JPMDL has
26 now denied the motion to transfer. In this context, plaintiffs represent that they would be willing to
27 coordinate discovery efforts with the majority of cases pending in the Central District of California and
28 would agree to a stay of this proceeding pending the outcome of the first-filed case.

1 For all of the foregoing reasons, defendants' motion to transfer is GRANTED. The Clerk
2 of Court is directed to transfer this case to the Central District of California where the first action
3 was filed.
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5 Dated this 3rd day of October, 2019.

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8 Robert S. Lasnik
9 United States District Judge
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